
TENNESSEE DEPARTMENT OF
FINANCIAL INSTITUTIONS



COMPLIANCE DIVISION

TENNESSEE DEPARTMENT OF FINANCIAL INSTITUTIONS

COMPLIANCE DIVISION

I. OVERVIEW

The **COMPLIANCE DIVISION** is responsible for the licensing and regulatory supervision of the following seven types of financial institutions operating in Tennessee:

- Check Cashing
- Deferred Presentment Service Companies
- Money Transmitters
- Industrial Loan & Thrift Companies
- Insurance Premium Finance Companies
- Residential Mortgage Lenders, Brokers, and Servicers

With the development of a comprehensive examination program, all of the above industries are subject to periodic examinations by the Division's field examiners. The Compliance Division's examinations are designed to test and enforce compliance with Tennessee laws as well as Federal regulations. These laws were written in order to protect the consumer by limiting the amount of interest, loan charges, and insurance charges that can be assessed to them.

The field examiners also investigate consumer complaints and allegations of consumer fraud and usury. The Division's staff is also responsible for investigating consumer complaints involving title pledge lenders and reports of inadequate or inaccurate disclosures given to consumers by these title pledge lenders.

II. CHECK CASHING COMPANIES

The activities of Check Cashing Companies are governed by "The Check Cashing Act of 1997", codified as T.C.A. Title 45, Chapter 18. Retailers who cash checks incidental to their retail operations are exempt from the Act if their compensation for cashing checks does not exceed five percent (5%) of their gross receipts. See T.C.A. § 45-18-103(5).

A. Licensing

To obtain a check cashing license, an applicant must maintain a net worth of at least \$25,000 and demonstrate sufficient character and experience to command the confidence of the public and warrant the belief that the applicant will operate its business lawfully and fairly. There were one hundred seventy-nine (179) approved check cashing applications for the year ending December 31, 2001 and three hundred-nine (309) active check cashers licenses.

B. Examinations

Examinations of licensed check cashers are conducted pursuant to T.C.A. § 45-18-113. During the calendar year 2001 the Division conducted two hundred thirty-five (235) exams of licensed check cashing companies. These exams resulted in fifty-six (56) customers receiving refunds totaling three hundred sixty-two dollars (\$362). There were six (6) civil money penalties assessed for a total of \$4500.00.

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III. DEFERRED PRESENTMENT SERVICE COMPANIES

A. Licensing

During the calendar year 2001, the Department approved 151 applications. Companies with branch offices must obtain a license for each location from which such business is conducted. As of December 31, 2001, there were 1016 active licenses.

B. Examinations

For the year ending December 31, 2001, this Division conducted 978 examinations of deferred presentment offices. Typically, compliance examiners review a random sample of the licensee's transactions by reviewing the fees charged and the disclosures given to the customers.

Licensees were required to refund all excessive or unauthorized fees pursuant to T.C.A. § 45-17-115, resulting in total refunds of \$90,551 to 866 customer accounts. The Department took administrative action against one (1) company by assessing a civil money penalty of \$200.00

C. Annual Report Information

By September 1st of each year, each licensee must, pursuant to T.C.A. § 45-17-119, file with the Commissioner of Financial Institutions an Annual Report covering the licensee's business activities as of the close of business on June 30. These reports include a balance sheet, statement of income and expense, as well as other statistical data consistent with generally accepted accounting principles.

The following tabulation represents aggregate information from reports filed by 447 companies with 569 branch offices. The Department did not require an annual report from companies opened after June 2001:

Total Assets	\$100,180,527
Total Liabilities	\$ 30,163,531
Net Worth	\$ 80,662,982

Total assets of the average sized company operating in Tennessee are \$224,118.00. We have twenty-four (24) companies with assets in excess of \$500,000.00 and one hundred-sixty (160) with assets of between \$100,00.00 and \$500,00.00. The remaining companies have assets under \$100,000.

INCOME INFORMATION FOR 12 MONTHS ENDED JUNE 30, 2001

The following information was compiled from the statements of income and expenses for the period of July 1, 2000 to June 30, 2001:

Total Operating Income	\$118,434,260
Salary Expense	\$ 29,599,744
Bad Debt Expense	\$ 9,054,277
Net Income (After Tax)	\$ 11,084,031

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Of the four hundred forty-seven (447) reporting companies, ninety-seven (97) reported operating losses and twenty-eight (28) reported net income of over \$100,000.00 for the period ending June 30, 2001. The average company made a profit of \$24,796.00.

Salaries are a major company expense, amounting to approximately twenty-five (25%) of total operating income. The average salary expense for each company is \$53,675.00.

Losses on receivables constitute another major industry expense. Bad debt expense represented approximately 7.6% of total operating income.

TRANSACTIONAL DATA

Number of Receivable Transactions	2,939,164
Dollar Amount of Transactions during the Year	\$532,225,217
Average Size of Receivable Transactions	\$ 181.08

Number of Transactions by Size of Check:

\$ 1 - \$150	492,751
\$ 151 - \$250	2,392,134
\$ 251 - \$500	54,279

IV. MONEY TRANSMITTERS

The activities of Money Transmitter companies are governed by "The Tennessee Money Transmitter Act of 1994", codified as T.C.A. Title 45, Chapter 7. There are exemptions that apply to certain government agencies, as well as business organizations. See T.C.A. § 45-7-204.

A. Licensing

Each applicant for a license must demonstrate, and each licensee must maintain, a net worth of not less than \$100,000.00 computed according to generally accepted accounting principles. Persons transmitting, or proposing to transmit, money shall have an additional net worth of \$25,000.00 per additional location or agent located in Tennessee, as applicable, to a maximum of \$500,000.00. The applicant must demonstrate such experience, character, and general fitness as to command the confidence of the public and warrant the belief that the business to be operated thereunder will be operated lawfully and fairly. As of December 31, 2001, we had licenses for 36 companies.

B. Examinations

Examinations of money transmitters are conducted pursuant to T.C.A. § 45-7-214. The Commissioner in lieu of an on-site examination, may accept the examination report of an agency of another state, or a report prepared by an independent accounting firm, and

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reports so accepted are considered, for all purposes, as an official report of the Commissioner.

V. INDUSTRIAL LOAN AND THRIFT COMPANIES

Consumer loan companies operate under The Industrial Loan and Thrift Companies Act, codified as T.C.A. Title 45, Chapter 5. The stated purpose of the Act is to allow citizens to have the services of regulated lending institutions at rates and charges reasonably commensurate with economic realities. This Act authorizes those companies that obtain a certificate of registration to charge rates and fees somewhat higher than what may be charged under the State's General Usury statutes. While the Act allows higher interest rates, it also contains many consumer protection provisions particularly with respect to loan charges. In 2001, there was legislation enacted that requires companies licensed under this Act to secure bonding for the first time. The bonding requirements are as follows: If the applicant proposes to make loans secured by a mortgage, the surety bond or letter of credit shall be in the amount of two hundred thousand dollars (\$200,000). For all other applicants, the bond or letter of credit shall be in the amount of fifty thousand dollars (\$50,000). Only one (1) bond or letter of credit is required for any registrant, irrespective of the number of employees or offices of such registrant.

A. Registration

To obtain a certificate of registration, an applicant must maintain a net worth of at least \$25,000.00 and demonstrate sufficient character to command the confidence of the public and warrant the belief that the applicant will operate its business lawfully and fairly. At the end of year 2001, there were 772 locations licensed under the Act.

B. Examinations

We conducted 510 examinations resulting in refunds of \$425,319.62 to 3,397 consumers. We examined 66% of the licensed locations. Special examinations were conducted frequently as a result of complaints filed with the Department.

C. Complaints

There were 50 complaints filed and resolved in 2001. A total of \$60,962.59 was refunded to consumers because of these complaints. Out of the 50 total complaints, 10 of these involved pay history disputes, delinquent credit reporting or late charges. Four (4) involved credit insurance issues. Out of the total amount refunded, one company accounted for over \$50,000.

D. Annual Report Information

Pursuant to T.C.A. § 45-5-503, each registrant must file with the Commissioner by no later than July 31st of each year, an annual report showing basic financial information as to the registrants operations. The information in the following Exhibits were derived from those reports covering the time period of January 1, 2000 – December 31, 2000.

- i. Industrial Loan & Thrift Companies with loans less than \$300.00
- ii. Industrial Loan & Thrift Companies with loans greater than \$300.00
- iii. Industrial Loan & Thrift Companies Composite Annual Report

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INDUSTRIAL LOAN AND THRIFT COMPANIES

Composite Annual Report

Year Ending December 31, 2000

	December 31, 2000	December 31, 1999
Number of Offices Included in this Report	752	604
Number of Employees in State at Year-end	5,507	2,161

REGULATED ENTITIES PROFIT PERCENTAGE

RATE OF RETURN

Average Net Receivable	\$2,114,442,389	\$1,768,944,526
Net Income	\$55,846,095	\$10,224,223
Rate of Return	2.64%	0.58%

ANALYSIS OF CHARGES ON LOANS

Charges Collected and/or Earned	\$502,518,438	\$388,987,083
Average Monthly Rate Collected	1.98%	1.83%

ANALYSIS OF EXPENSE PER ACCOUNT

Average Number of Accounts Outstanding	465,792	455,818
Total Expenses	\$464,591,915	\$378,762,860
Average Monthly Expense Per Account	\$83.12	\$69.25

STATEMENT OF INCOME AND EXPENSES

Total Operating Income	\$567,535,811	\$388,987,083
Total Expenses Before Income Taxes	\$464,591,915	\$386,627,023
Income Before Income Taxes	\$102,943,896	\$12,360,060

OTHER INFORMATION

Number of Loans Made During the Year	828,313	801,440
Dollar Volume of Loans Made During the Year	\$2,051,233,222	\$1,665,512,084
Bad Debts	\$87,561,073	\$65,884,719
Bad Debts - Number of Accounts	55,254	47,607

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INDUSTRIAL LOAN AND THRIFT COMPANIES

Loans Less Than \$300

Year Ending December 31, 2000

	December 31, 2000	December 31, 1999
Number of Offices Included in this Report	24	20
Number of Employees in State at Year-end	80	76

REGULATED ENTITIES PROFIT PERCENTAGE

RATE OF RETURN

Average Net Receivable	\$4,370,858	\$4,006,022
Net Income	\$941,550	728,077
Rate of Return	21.54%	18.18%

ANALYSIS OF CHARGES ON LOANS

Charges Collected and/or Earned	\$3,964,257	\$4,811,726
Average Monthly Rate Collected	7.56%	10.00%

ANALYSIS OF EXPENSE PER ACCOUNT

Average Number of Accounts Outstanding	26,673	26,841
Total Expenses	\$4,796,942	\$4,083,649
Average Monthly Expense Per Account	\$14.99	\$12.68

STATEMENT OF INCOME AND EXPENSES

Total Operating Income	\$5,846,333	\$4,811,726
Total Expenses Before Income Taxes	\$4,796,942	\$4,027,374
Income Before Income Taxes	\$1,049,391	\$784,352

OTHER INFORMATION

Number of Loans Made During the Year	153,732	174,578
Dollar Volume of Loans Made During the Year	\$32,303,257	\$31,207,237
Bad Debts	\$883,993	\$718,740
Bad Debts - Number of Accounts	6,223	5,419

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INDUSTRIAL LOAN AND THRIFT COMPANIES

Loans Greater Than \$300

Year Ending December 31, 2000

	December 31, 2000	December 31, 1999
Number of Offices Included in this Report	728	584
Number of Employees in State at Year-end	5,427	2,085

REGULATED ENTITIES PROFIT PERCENTAGE

RATE OF RETURN

Average Net Receivable	\$2,110,071,531	\$1,764,938,504
Net Income	\$54,904,545	\$9,496,146
Rate of Return	2.60%	0.54%

ANALYSIS OF CHARGES ON LOANS

Charges Collected and/or Earned	\$498,554,181	\$384,175,357
Average Monthly Rate Collected	1.97%	1.81%

ANALYSIS OF EXPENSE PER ACCOUNT

Average Number of Accounts Outstanding	439,119	428,977
Total Expenses	\$459,794,973	\$374,679,211
Average Monthly Expense Per Account	\$87.26	\$72.79

STATEMENT OF INCOME AND EXPENSES

Total Operating Income	\$561,689,478	\$384,175,357
Total Expenses Before Income Taxes	\$459,794,973	\$382,599,649
Income Before Income Taxes	\$101,894,505	\$11,575,708

OTHER INFORMATION

Number of Loans Made During the Year	674,581	626,862
Dollar Volume of Loans Made During the Year	\$2,018,929,965	\$1,634,304,847
Bad Debts	\$86,677,080	\$65,165,979
Bad Debts - Number of Accounts	49,031	42,188

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VI. INSURANCE PREMIUM FINANCE COMPANIES

The activities of Premium Finance Companies are governed by the “Premium Finance Company Act of 1980”, codified as T.C.A. Title 56, Chapter 37. “Premium Finance Company” means a person engaged in the business of entering into premium finance agreements or acquiring premium finance agreements from other premium finance companies. “Premium finance agreement” means an agreement by which an insured, or prospective insured, promises to pay to a premium finance company the amount advanced, or to be advanced under the agreement to an insurer or to an insurance agent or producing agent in payment of premiums of an insurance contract, together with interest and a service charge as authorized and limited by this Chapter.

A. Registration

To obtain a license, an applicant must, pursuant to T.C.A. § 56-37-104(b), be competent and trustworthy, act in good faith, have a good business reputation, experience, training or education in this business. Furthermore, if the applicant is a foreign or domestic corporation, LLC, or limited partnership, it must be authorized to conduct business in this state. At the end of the year 2001, there were 76 companies licensed under the Act.

B. Examinations

We conducted 11 examinations in 2001, representing 15% of the licensed offices located in Tennessee.

C. Complaints

No consumer complaints were received on Premium Finance Companies in the year 2001.

VII. RESIDENTIAL MORTGAGE LENDERS, BROKERS, AND SERVICERS

The activities of Residential Mortgage Lending, Brokering, and Servicing companies are governed by the “Tennessee Residential Lending, Brokerage and Servicing Act of 1988”, codified as T.C.A. Title 45, Chapter 13. T.C.A. § 45-13-103(a) expands this further by stating “no person shall engage in the business of making mortgage loans, nor shall any person engage in the business of being a mortgage loan broker in this state, nor shall any person engage in the business of being a mortgage loan servicer in this state, without first obtaining a license from the Commissioner of filing a registration statement under this Chapter”. Certain companies may be exempt under criteria explained in T.C. A. § 45-13-103. In 2001, legislation was passed that increased the bonding requirements on mortgage companies licensed to do business in the state. If the applicant proposes to make or service mortgage loans, the surety bond or irrevocable letter of credit shall be in the amount of two hundred thousand dollars (\$200,000). For all applicants whose activities are limited to the brokering of mortgage loans, the surety bond or irrevocable letter of credit shall be in the amount of ninety thousand dollars (\$90,000). Only one (1) bond or letter of credit is required for any licensee, irrespective of the number of employees or offices of such licensee.

A. Registration

To obtain a certificate of registration, an applicant must maintain a net worth of at least

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\$25,000.00 and demonstrate sufficient character to command the confidence of the public and warrant the belief that the applicant will operate its business lawfully and fairly. At the end of year 2001, there were 1,066 companies licensed under the Act with 490 branches.

B. Examinations

We conducted 63 examinations resulting in refunds of \$26,755.95 to consumers. We examined 5.72% of the licensed companies.

C. Complaints

There were 117 complaints filed and resolved in the year 2001. Of the total number of complaints, 27 involved appraisals either going unpaid or refunds due to the customer. There were 28 complaints involving account servicing or escrow issues. There were numerous issues involving alleged misrepresentation of interest rates and Real Estate Settlement and Procedures Act violations. As a result of these complaints, consumers of the state were refunded a total of \$36,359.